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REMARKS

Claims 1-28 were pending in this case.

The Examiner maintained the restriction requirement of the Office

5 Action of December 27, 2005. Thus, Group II claims are under prosecution. Claims 17-25 are withdrawn as non-elected scope. The Examiner states that claim 27 is also withdrawn. However, Applicants notice that by mistake Applicants had marked claim 27 as being dependent on claim 25, while, in fact, claim 27 should have been marked dependent on claim 26 instead (as a pharmaceutical composition claim and not a method claim). The error is regretted. This amendment corrects that mistake. It is, therefore, believed that claim 27 is still under prosecution. Thus, claims 1-16 and 26-28 belonging to Group II are under prosecution. Rejoinder of the Group IV claims with the elected subject matter is gratefully appreciated.

15 In this amendment, Applicants are canceling, without prejudice, any non-elected subject matter (heteroaryl and heterocyclyl moieties for R3) from the claims to bring the claims in conformity with the elected scope. Specific compounds falling within the non-elected scope are also deleted from claims 15 and 16. Applicants are reserving the right to file divisional applications on all cancelled, non-elected scope as well as claims 17-25.

20 Claims 1-16, 26 and 28 were rejected under 35 U.S.C. § 103(a) as being obvious over Birault *et al* (WO 2001/35917). Applicants submit that Birault *et al* teach pyrazolopyridines which contain an -NH<sub>2</sub> moiety in the 3-position (which is R<sup>2</sup> in the present case). All the disclosures, examples and 25 claims of Birault *et al* are drawn to this -NH<sub>2</sub> for R<sup>2</sup> since their compounds are for dyes which require an amine functionality at that position. There is no teaching or even suggestion in Birault *et al* to make compounds that contain no -NH<sub>2</sub> in that position or as pharmaceutical compounds. In the present amendment, Applicants are deleting amine (-NR<sup>6</sup>R<sup>7</sup>) from the definition of R<sup>2</sup>. 30 Additionally, since R<sup>2</sup> could be R<sup>9</sup> and the definition of R<sup>9</sup> still contains amine (-NR<sup>5</sup>R<sup>10</sup>), this amendment imports the specific definitions of R<sup>9</sup> into R<sup>2</sup> excluding -NR<sup>5</sup>R<sup>10</sup>. Thus, no new matter is added. Applicants, therefore, believe that the amended claims cannot be considered obvious over Birault *et al*. Withdrawal of the § 103(a) rejection is, therefore, respectfully requested.

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It is respectfully submitted that any amendment herein is made only with a desire to advancing the prosecution of the claims on merit into allowance and not as an admission of any non-patentability. The right to file divisional applications on any cancelled scope is preserved.

5 There being no other rejection pending, Applicants believe that the claims are in allowable condition and such an action is earnestly solicited. If the Examiner has questions, the Examiner is invited to contact the undersigned.

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Respectfully submitted,



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